IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5908 OF 2007

Chandrakant Ganpati Kamble
Through his Power of Attorney
Holder, father, Ganpati
Chamdrappa Kamble .... Petitioner

versus

Dattaji Appasaheb Jadhav and ors..... Respondent.

Mr. Shriniwas sudhir Patwardhan for the eptitioner.

CORAM; A.P. DESHPANDE, J.
DATED; 18TH OCTOBER, 2007

P.C.;

1. This writ petition is filed by the original defendant no.1 against whom the First Appellate Court has passed an order restraining him from raising any permanent construction in the portion of land, which is in his possession till the disposal of the suit. The First Appellate Court on the basis of material on record, has primafacie found that the present petitioner has purchased an undivided share and hence has become a co-owner along with the plaintiff. For reaching a primafacie finding, the First Appellate Court has relied upon the description of the property in the sale deed. The trial court has also held that the present petitioner is a co-owner. Thus all the

co-owners would be entitled to a common use of the property in question. No co-owner can use any part of the said property for his exclusive use and occupation. Taking a possible view of the matter, the First Appellate Court has granted injunction referred to hereinabove.

2. Perused the order. The same does not call for any interference, more so in exercise of writ jurisdiction. However, having regard to the nature of dispute, I hope and trust that the trial court will proceed to decide the suit bearing No.47/06 as expeditiously as possible and preferably within a peirod of six months from today.

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